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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 MARCIANO MUNOZ-DE LA O,

15 Defendant.

Case No. 2:20-CR-00134-RMP

GOVERNMENT'S NOTICE OF
SUPPLEMENTAL AUTHORITY

16 In support of the Defendant's Motion to Dismiss, ECF No. 61, the Defendant
17 submitted an affidavit authored by Dr. S. Deborah Kang, ECF No. 78-2. Dr. Kang
18 testified during an evidentiary hearing held on January 28, 2022. *See* ECF No. 88. The
19 Government submits an additional relevant decision that has been issued since the
20 Court heard argument. Namely, a district court in the Southern District of Texas, in
21 *United States v. Hernandez-Lopez*, Case No. 4:21-cr-00440, denied a defendant's
22 Motion to Dismiss which alleged that 8 U.S.C. § 1326 violated the Equal Protection
23 Clause. *See* Exhibit 1. Importantly, the court considered Dr. Kang's affidavit when
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1 rejecting the defendant's position. *See id.* at 5.

2 The decision is attached for the Court's consideration.

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4 Dated: February 8, 2022.

5 Vanessa R. Waldref
6 United States Attorney

7 s/Michael J. Ellis
8 Michael J. Ellis
9 Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Payton B. Martinez

s/ Michael J. Ellis
Michael J. Ellis
Assistant United States Attorney